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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/438,676	11/12/99	BLACH	E 12460.1USC4

023552 QM32/0214
MERCHANT & GOULD
P O BOX 2903
MINNEAPOLIS MN 55402-0903

EXAMINER

DAWSON, G

ART UNIT	PAPER NUMBER
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3761

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DATE MAILED: 02/14/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/438,676

Applicant(s)
Blach et al

Examiner
Glenn Dawson

Group Art Unit
3761



☒ Responsive to communication(s) filed on Nov 27, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 22-45 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 35-45 is/are allowed.

☒ Claim(s) 22-34 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

GLD
GLENN K. DAWSON
PRIMARY EXAMINER

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3761

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

⁴⁶⁻⁵³
Claims ~~22-34~~ are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: the horse that the force is applied to must be a horse afflicted with or susceptible to EIPH, as the preamble states that the method is for reducing EIPH.

Allowable Subject Matter

Claims 35-45 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 22-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Glenn Dawson at telephone number (703) 308-4304. Examiner Dawson can normally be reached on Monday through Thursday from 7:00 AM to 5:30 PM, Eastern Time.

Art Unit: 3761

If attempts to reach the examiner by telephone are unsuccessful, examiner Dawson's supervisor, John Weiss, can be reached at (703) 308-2702. The fax number for Group 3300 is (703) 305-3590 or 3591.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group 3300 receptionist at (703) 308-0858.

GKD
February 10, 2001


GLENN K. DAWSON
PRIMARY EXAMINER